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Permit No. WA-003135-6

Issuance Date: June 30, 2004
Effective Date: July 1, 2004
Expiration Date: June 30, 2009

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT No. WA-003135-6

State of Washington
DEPARTMENT OF ECOLOGY
Northwest Regional Office
3190 – 160th Avenue SE
Bellevue, WA 98008-5452

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.
authorizes

CHEMCO, Inc.
P. O. Box 875
Ferndale, WA 98248

<u>Facility Location:</u> 4191 Grandview Road Ferndale, WA 98248 Whatcom County Nooksack WQMA	<u>Receiving Water</u> Terrel Creek (Tributary to Birch Bay) Class "A" – fresh water
<u>Water Body I.D. No.:</u> WA-01-001	<u>Discharge Location</u> Latitude: 48° 53' 48" N Longitude: 122° 42' 76" W
<u>Industry Type:</u> Pressure Wood Preserving	

to discharge wastewater in accordance with the Special and General Conditions that follow.

Kevin C. Fitzpatrick
Water Quality Section Manager
Northwest Regional Office
Washington State Department of Ecology

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SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S3.	Discharge Monitoring Report	Monthly	August 15, 2004
S4.A.	Effluent Mixing Study	If needed	
S5.	Modification to Solid Waste Plan	As necessary	
S5.C.	Updated Solid Waste Plan	1/permit cycle	December 31, 2008
S6.	Updated Spill Plan	1/permit cycle	December 30, 2004
S7.A.	Acute Toxicity Tests Characterization Summary Report	As necessary	
S7.C.	Acute Toxicity Compliance Monitoring Reports	As necessary	
S9.	Updated Stormwater Pollution Prevention Plan	1/permit cycle	December 31, 2008
G1.	Notice of Change in Authorization	As necessary	
G7.	Application for Permit Renewal	1/permit cycle	December 30, 2008

SPECIAL CONDITIONS

S1. DISCHARGE LIMITATIONS

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of any of the following pollutants more frequently than, or at a concentration in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit.

A. Process Wastewater

Beginning on the effective date of this permit and lasting through the expiration date, the discharge of untreated process wastewater to waters of the state is prohibited. Process wastewater is defined as: all wastewater generated as a result of conditioning wood prior to or during the treatment process; any wastewater generated as a result of preservative formulation, recovery or regeneration; any wastewater generated as a result of process area cleaning operations including, but not limited to, wastewater from the drip pad, retort and tank farm maintenance operations; seal water from pump at the fire retardant process, vehicle wash water, and any stormwater associated with the process area including the tank farm, retort, drip pad and any area across which treated product is moved or stored prior to its having ceased dripping.

B. Treated and Untreated Product Storage Area Stormwater

Beginning on the effective date of this permit, and lasting through the expiration date, the Permittee is authorized to discharge treated stormwater runoff to Terrel Creek via road side ditches subject to meeting the following limitations:

FINAL EFFLUENT LIMITATIONS: Outfall 001	
Parameter	Maximum Daily ^a
Oil and Grease	10 mg/L
Total Suspended Solids	50 mg/L
Arsenic ^b	360 µg/L
Chromium ^b	15 µg/L
Copper ^b	17 µg/L
pH	Between 6.5 and 8.5 standard units
^a The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day.	
^b All metals are expressed as total recoverable metals.	

S2. MONITORING REQUIREMENTS

The Permittee shall monitor the wastewater according to the following schedules:

A. Monitoring Schedule for the Treated Product Storage Areas Stormwater

Stormwater samples shall be collected as the discharge leaves Outfall 001 prior to discharge to the roadside ditch.

Parameters	Frequency ¹	Type ²
Flow ³	1/ month	Grab
Oil and Grease	1/ month	Grab
Total Suspended Solids (TSS)	1/ month	Grab
Arsenic ⁴	1/ month	Grab
Chromium ⁴	1/ month	Grab
Copper ⁴	1/ month	Grab
pH	1/ month	Grab
Hardness ⁵ (Terrel Creek)	Four samples	Grab
¹ The sampling frequency for Outfall 001 shall be once every month for the months of September through May (9 samples per year). All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 48 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 60 minutes of discharge. If the collection of a grab sample is impractical within the first 60 minutes of a rainfall event, a grab sample can be taken during the first two hours of discharge, and the Permittee shall submit with the monitoring report a description of why a grab sample was not possible during the first hour. If the Permittee is unable to collect a sample due to insufficient rainfall or due to adverse climatic conditions, the Permittee shall submit in lieu of sampling data an explanation of why samples were not collected. Adverse climatic conditions, which may prohibit the collection of samples, include weather conditions that create dangerous conditions for personnel or otherwise make collection of a sample impracticable.		
² A grab sample is an individual discrete sample.		
³ Total <u>flow</u> shall be estimated based upon rainfall measurements or estimates, stormwater collection area and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40%), medium (40-65%), or high (above 65%)] for each storm event sampled.		

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|---|
| <p>⁴ All metals shall be reported as total recoverable metals. All metal analyses methods shall be sensitive enough to detect compliance or noncompliance with the permit limits in S1.B, above. In order to assure adequate quantification of data and to assure the ability to assess compliance with effluent limits as specified in S1.B, above, the following analytical methods for total recoverable metals are required: Arsenic shall be measured using one of the following EPA Methods: 200.7, 206.2, or 206.3.</p> <p>Chromium shall be measured using EPA Method 218.2. EPA Methods 200.7 or 220.1 may be used if the chromium concentration is five times above the method detection limit of the method.</p> <p>Copper shall be measured using EPA Method 220.2. EPA Methods 200.7 or 220.1 may be used if the copper concentration is five times above the method detection limit of the method.</p> |
| <p>⁵ The Permittee shall obtain two samples in the receiving water (Terrel Creek) at a different interval of time, and analyze for hardness. The data will be used to evaluate the effluent limit for copper.</p> |

B. Sampling and Analytical Procedures

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the water and wastewater monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136 or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Department of Ecology (Department).

C. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. Soils and hazardous waste data are exempted from this requirement pending accreditation of laboratories for analysis of these media by the Department.

S3. REPORTING AND RECORDKEEPING REQUIREMENTS

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Reporting

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted monthly. Monitoring data obtained during the previous month shall be summarized and reported on a form provided, or otherwise approved, by the Department, and be received no later than the 15th day of the month following the completed monitoring period, unless otherwise specified in this permit. The report(s) shall be sent to the Department of Ecology, Northwest Regional Office, 3190 – 160th Avenue SE, Bellevue, Washington 98008-5452

All lab reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/number, method detection limit (MDL), lab practical quantitation limit (PQL), reporting units and concentration detected.

Discharge Monitoring Report forms must be submitted monthly whether or not the facility was discharging. If there was no discharge or the facility was not operating during a given monitoring period, submit the form as required with the words "no discharge" entered in place of the monitoring results.

B. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of three (3) years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S2 of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's self-monitoring reports.

E. Noncompliance Notification

In the event the Permittee is unable to comply with any of the permit terms and conditions due to any cause, the Permittee shall:

1. Immediately take action to stop, contain, and cleanup unauthorized discharges or otherwise stop the violation, correct the problem and, if applicable, repeat sampling and analysis of any violation immediately and submit the results to the Department within thirty (30) days after becoming aware of the violation;
2. Immediately notify the Department of the failure to comply; and
3. Submit a detailed, written report to the Department within thirty (30) days (five [5] days for upsets and bypasses), unless requested earlier by the Department. The report should describe the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of the resampling, and any other pertinent information.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

S4. SOLID WASTE DISPOSAL

A. Solid Waste Handling

The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into state ground or surface water.

B. Leachate

The Permittee shall not allow leachate from its solid waste material to enter state waters without providing all known, available, and reasonable methods of treatment, nor allow such leachate to cause violations of the State Surface Water Quality Standards, Chapter 173-201A WAC, or the State Ground Water Quality Standards, Chapter 173-200 WAC. The Permittee shall apply for a permit or permit modification as may be required for such discharges to state ground or surface waters.

C. Solid Waste Control Plan

The Permittee shall submit all proposed revisions or modifications to the solid waste control plan to the Department. The Permittee shall comply with any plan modifications. The Permittee shall submit an update of the Solid Waste Control Plan with the application for permit renewal one hundred and eighty (180) days prior to the expiration date of the permit.

S5. SPILL PLAN

The Permittee shall submit to the Department an update to the existing Spill Control Plan by December 30, 2004.

The updated Spill Control Plan shall include the following:

- A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- A list of all oil and chemicals used, processed, or stored at the facility which may be spilled into state waters.

For the purpose of meeting this requirement, plans and manuals required by 40 CFR Part 112, and contingency plans required by Chapter 173-303 WAC may be submitted.

S6. ACUTE TOXICITY

If the Permittee can demonstrate compliance with the effluent limits set forth in S1.B of this permit through six consecutive sampling events, the toxicity testing as set forth in the following requirement is not required.

A. Effluent Characterization

The Permittee shall conduct acute toxicity testing on the final effluent to determine the presence and amount of acute (lethal) toxicity. The two acute toxicity tests listed below shall be conducted on each sample taken for effluent characterization.

Effluent characterization for acute toxicity shall be conducted with two tests: one in September or October (representing first flush) and one in January of each year. One sample must be from the first rainfall event of the season. Acute toxicity testing shall follow protocols, monitoring requirements, and quality assurance/quality control procedures specified in this section. A dilution series consisting of a minimum of five concentrations and a control shall be used to estimate the concentration lethal to 50% of the organisms (LC₅₀). The percent survival in 100% effluent shall also be reported.

A written report shall be submitted to the Department within sixty (60) days after the sample date. A final effluent characterization summary report shall be submitted to the Department within ninety (90) days after the last monitoring test results are final. This summary report shall include a tabulated summary of the individual test results and any information on sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability which is developed during the period of testing.

Acute toxicity tests shall be conducted with the following species and protocols:

- 1) Fathead minnow, *Pimephales promelas* (96-hour static-renewal test, method: EPA/600/4-90/027F) or Rainbow trout, *Oncorhynchus mykiss* (96-hour static-renewal test, method: PA/600/4-90/027F).
- 2) Daphnid, *Ceriodaphnia dubia*, *Daphnia pulex*, or *Daphnia magna* (48-hour static test, method: EPA/600/4-90/027F). The Permittee shall choose one of the three species and use it consistently throughout effluent characterization.

B. Effluent Limit for Acute Toxicity

The Permittee has an effluent limit for acute toxicity if, after completing one cycle of two years of effluent characterization, either:

- (1) The median survival of any species in 100% effluent is below 80%, or
- (2) Any one test of any species exhibits less than 65% survival in 100% effluent.

If an effluent limit for acute toxicity is required by Subsection B at the end of one cycle (2 years) of effluent characterization, the Permittee shall immediately complete all applicable requirements in Subsections C, D, and E.

If no effluent limit is required by Subsection B at the end of one cycle (2 years) of effluent characterization, then the Permittee shall complete all applicable requirements in Subsection E.

The effluent limit for acute toxicity is no acute toxicity detected in a test concentration representing the acute critical effluent concentration (ACEC).

In the event of failure to pass the test described in Subsection C of this section for compliance with the effluent limit for acute toxicity, the Permittee is considered to be in compliance with all permit requirements for acute whole effluent toxicity as long as the requirements in Subsection D are being met to the satisfaction of the Department.

The ACEC means the maximum concentration of effluent during critical conditions at the boundary of the zone of acute criteria exceedance assigned pursuant to WAC 173-201A-100. The ACEC will be determined as a component of the Effluent Mixing Study.

If the Permittee has an effluent limit for acute toxicity and the ACEC is not known, then effluent characterization for acute toxicity shall continue until the time an ACEC is known. Effluent characterization shall be continued until an ACEC has been determined and shall be performed using each one of the tests listed in Subsection A on a rotating basis. When an ACEC has been determined, the Permittee shall immediately complete all applicable requirements in Subsections C, D, and E.

If no effluent limit is required by Subsection B at the end of one cycle (2 years) of effluent characterization, then the Permittee shall stop effluent characterization and begin to conduct the activities in Subsection E even if the ACEC is unknown.

C. Monitoring for Compliance with an Effluent Limit for Acute Toxicity

Monitoring to determine compliance with the effluent limit shall be conducted quarterly for the remainder of the permit term using each of the species listed in Subsection A above on a rotating basis and performed using at a minimum 100% effluent, the ACEC, and a control. The Permittee shall schedule the toxicity tests in the order listed in the permit unless the Department notifies the Permittee in writing of another species rotation schedule. The percent survival in 100% effluent shall be reported for all compliance monitoring.

Compliance with the effluent limit for acute toxicity means no statistically significant difference in survival between the control and the test concentration representing the ACEC. The Permittee shall immediately implement Subsection D if any acute toxicity test conducted for compliance monitoring determines a statistically significant difference in survival between the control and the ACEC using hypothesis testing at the 0.05 level of significance (Appendix H, EPA/600/4-89/001). If the difference in survival between the control and the ACEC is less than 10%, the hypothesis test shall be conducted at the 0.01 level of significance.

D. Response to Noncompliance with an Effluent Limit for Acute Toxicity

If the Permittee violates the acute toxicity limit in Subsection B, the Permittee shall begin additional compliance monitoring within one week from the time of receiving the test results. This additional monitoring shall be conducted weekly for four consecutive weeks using the same test and species as the failed compliance test. For intermittent discharges, testing shall be conducted on the next four discharge events using the same test and species as the failed compliance test. Testing shall determine the LC₅₀ and effluent limit compliance. The discharger shall return to the original monitoring frequency in Subsection C after completion of the additional compliance monitoring.

If the Permittee believes that a test indicating noncompliance will be identified by the Department as an anomalous test result, the Permittee may notify the Department that the compliance test result might be anomalous and that the

Permittee intends to take only one additional sample for toxicity testing and wait for notification from the Department before completing the additional monitoring required in this subsection. The notification to the Department shall accompany the report of the compliance test result and identify the reason for considering the compliance test result to be anomalous. The Permittee shall complete all of the additional monitoring required in this subsection as soon as possible after notification by the Department that the compliance test result was not anomalous. If the one additional sample fails to comply with the effluent limit for acute toxicity, then the Permittee shall proceed without delay to complete all of the additional monitoring required in this subsection. The one additional test result shall replace the compliance test result upon determination by the Department that the compliance test result was anomalous.

If all of the additional compliance monitoring conducted in accordance with this subsection complies with the permit limit, the Permittee shall search all pertinent and recent facility records (operating records, monitoring results, inspection records, spill reports, weather records, production records, raw material purchases, pretreatment records, etc.) and submit a report to the Department on possible causes and preventive measures for the transient toxicity event which triggered the additional compliance monitoring.

If toxicity occurs in violation of the acute toxicity limit during the additional compliance monitoring, the Permittee shall submit a Toxicity Identification/Reduction Evaluation (TI/RE) plan to the Department within sixty (60) days after test results are final. The TI/RE plan shall be based on WAC 173-205-100(2) and shall be implemented in accordance with WAC 173-205-100(3).

E. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on grab samples. Samples taken for toxicity testing shall be cooled to 4 degrees Celsius while being collected and shall be sent to the lab immediately upon completion. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended.

3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in Subsection A and the Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in Subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include the ACEC.
8. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing and do not comply with the acute statistical power standard of 29% as defined in WAC 173-205-020 must be repeated on a fresh sample with an increased number of replicates to increase the power.

S7. STORMWATER POLLUTION PREVENTION PLAN

The Permittee shall submit to the Department an update to the existing Stormwater Pollution Prevention Plan (SWPPP) with the permit reapplication required in General Condition G7.

The Permittee shall modify the existing SWPPP whenever there is a change in design, construction, operation or maintenance, which causes the SWPPP to be less effective in controlling pollutants. Whenever the description of potential pollutant sources or the pollution prevention measures and controls identified in the SWPPP are inadequate, the SWPPP shall be modified, as appropriate, within two (2) weeks if such determination. The proposed modifications to the SWPPP shall be submitted to the Department at least thirty (30) days in advance of implementing the proposed changes in the plan unless the Department approves immediate implementation. The Permittee shall provide for implementation of any modifications to the SWPPP in a timely manner.

S8. BEST MANAGEMENT PRACTICES

The Permittee shall comply with the following Best Management Practices (BMP's) at all times during operation.

- A. Where treatment chemicals including treatment formulation precursors (except uncontaminated water) are received, stored, processed or otherwise handled, appropriate containment, drainage control, and/or diversionary structures shall be provided to prevent storm water runoff and contamination. Such structures may include roofs, covers, curbing, culverts, gutters, or similar structures to prevent the contact of uncontaminated storm water with process wastewater or process pollutants.
- B. All liquid chemical storage and process areas shall have secondary containment sufficient to contain the capacity of the largest single tank or vessel plus 10 percent. Secondary containment systems shall be sufficiently impervious to contain spilled chemicals until they can be removed or treated.
- C. Treated product, upon the removal from the retort shall remain on the drip pad until it has ceased dripping as defined in 40 CFR part 264.572 (k) and 40 CFR part 265.443 (k). Treated product shall be periodically manipulated while on the drip pad to allow the removal of excess treating solution from cracks, checks, and from within bundles or units of wood.
- D. Drip pads shall be designed, installed, and operated in accordance with the requirements for drip pads contained in 40 CFR part 264 and 40 CFR part 265.
- E. Separate material handling equipment (fork lifts, pettibones, etc.) shall be used for treated and untreated wood whenever feasible. When separate material handling equipment is not feasible, actions shall be taken to ensure that process pollutants are not tracked to the untreated wood (white wood) storage yard.
- F. Storm water originating from areas outside the treated product storage area(s) shall be diverted away from the treated product storage area(s). Runoff from the treated product storage area shall be collected or channeled to one or more discrete discharge points to facilitate storm water sample collection.
- G. To the maximum extent practicable untreated and treated wood shall be stored separately, and the treated wood shall be wrapped prior to shipment.
- H. The use of detergents and emulsifiers for equipment cleaning, maintenance, and repair which results in a discharge to waters of the state shall be prohibited unless adequate treatment is provided. Oil/water separators and/or sedimentation are not considered adequate treatment.
- I. Infiltration of storm water runoff from the treated product storage areas shall be prevented to the maximum extent practicable.

- J. The Permittee shall regularly inspect the treated wood storage yard, loading and unloading areas, for woody debris, and sweep up and remove any existing debris before storm water flushes it into the storm drains. The Permittee shall conduct routine inspections of the swept areas to confirm adequate debris removal.
- K. All treated wood, especially treated CCA products, shall be stored undercover to the maximum extent possible, to prevent leaching of acid and metals. The Permittee shall maximize the time for freshly treated wood to be cured indoors, and give priority to covering all freshly treated wood.
- L. The Permittee shall prevent materials that contain treatment solutions, or which are highly contaminated with copper and chromium, to be disposed of in the dumpster.
- M. The Permittee should evaluate the feasibility and effectiveness of an aerator to be installed in Pond 2 to improve the pH quality in that pond.
- N. The Permittee shall dredge the accumulated sediment in the ponds and disposed of it properly as often as necessary.
- O. The Permittee shall conduct frequent inspections and implement a regular maintenance schedule for the catch basins in order to prevent sediment/debris buildup to the extent possible. Catch basin socks or filters shall be changed out as often as necessary to maintain operational characteristics.

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative, only if:
 - 1. The authorization is made in writing by a person described above and submitted to the Department.
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2, above, is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2, above, must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

G2. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

G3. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
 - 1. Violation of any permit term or condition.
 - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
 - 3. A material change in quantity or type of waste disposal.
 - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR Part 122.64(3)].
 - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR Part 122.64(4)].
 - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
 - 7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.

- B. The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:
1. A material change in the condition of the waters of the state.
 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
 3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
 4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
 5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
 6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
 7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
 2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new Permittee.

G4. REPORTING A CAUSE FOR MODIFICATION

The Permittee shall, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G5. PLAN REVIEW REQUIRED

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least one hundred and eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G7. DUTY TO REAPPLY

The Permittee shall apply for permit renewal at least one hundred and eighty (180) days prior to the specified expiration date of this permit.

G8. TRANSFER OF THIS PERMIT

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

G9. REDUCED PRODUCTION FOR COMPLIANCE

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

G10. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

G11. DUTY TO PROVIDE INFORMATION

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

G12. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

G13. ADDITIONAL MONITORING

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

G14. PAYMENT OF FEES

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G16. UPSET

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- 1) an upset occurred and that the Permittee can identify the cause(s) of the upset;
- 2) the permitted facility was being properly operated at the time of the upset;
- 3) the Permittee submitted notice of the upset as required in Condition S3.E; and
- 4) the Permittee complied with any remedial measures required under S5 of this permit.

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G17. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

G18. DUTY TO COMPLY

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

G19. TOXIC POLLUTANTS

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G20. PENALTIES FOR TAMPERING

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two (2) years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

G21. REPORTING ANTICIPATED NONCOMPLIANCE

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least one hundred and eighty (180) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Department.

G22. REPORTING OTHER INFORMATION

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

G23. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS

The Permittee belonging to the categories of existing manufacturing, commercial, mining, or silviculture must notify the Department as soon as they know or have reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
 - 1. One hundred micrograms per liter (100 µg/l).
 - 2. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
 - 3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
 - 4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
 - 1. Five hundred micrograms per liter (500 µg/L).
 - 2. One milligram per liter (1 mg/L) for antimony.
 - 3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
 - 4. The level established by the Director in accordance with 40 CFR 122.44(f).

G24. COMPLIANCE SCHEDULES

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.